

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
23 Christopher Way
Eatontown, NJ 07724
2. Description of Action: The proposed action is for a sole source, firm-fixed-price delivery order to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-Wide Acquisition Contract (GWAC) to Hewlett Packard Enterprise Company (HPE), for HPE server maintenance.
3. Description of Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Field Operations Region 4, has a requirement for the renewal of server maintenance for existing brand name HPE servers in use throughout Region 4. Region 4 has approximately 415 HPE devices in use throughout the Region's 42 locations which are no longer covered under Original Equipment Manufacturer (OEM) warranties. The required HPE Foundation Care 24x7 with Defective Media Retention server maintenance provides for remote and on-site maintenance support to VA staff for repairs or replacement of HPE hardware, firmware, and software to these non-warranty devices. In addition, the server maintenance shall provide for hardware problem diagnosis, parts, materials, logistics, defective media retention, 4-hour on-site response, monthly service reports, updates, patches, fixes, and security resolutions developed by HPE. The server maintenance shall also consist of 24 hours per day, 7 days per week, 365 days a year support via a dedicated telephone line, email, and access to the HPE Online Web Support Tool. Finally, the services shall provide for quarterly reconciliation as obsolete devices used by VA are removed from operation and/or HPE devices are added to this order as those OEM warranties expire. These maintenance services will ensure the current Region 4 HPE server infrastructure remains fully operational. The total estimated value of the proposed action is REDACTED, which includes a 12-month base period and two 12-month option periods.
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c)(2) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized."
5. Rationale Supporting Use of Authority Cited Above: The proposed source for this requirement is HPE, located at 13600 EDS Drive, Herndon, Virginia 20171. VA previously acquired and currently uses HPE equipment throughout Region 4's server architecture and infrastructure. HPE currently has authorized agreements and affiliations with numerous resellers for the sale of items such as, but not limited to, hardware equipment, software, and maintenance and support services. HPE does not have an authorized affiliation or agreement in place with any reseller for firmware

updates, patches, fixes, and security resolutions developed by HPE for aged devices that are no longer covered under OEM warranties, therefore HPE is the only responsible source that can satisfy the Government's requirements. Firmware is data that is stored on a hardware device's read-only memory that provides instruction on how that device should operate. Only firmware maintenance services provided by HPE on the Region 4 non-warranty devices can meet the requirements as the existing firmware is proprietary to HPE. Specifically, without access to HPE proprietary source code, no other source is able to provide firmware updates, patches, fixes, updates, or security resolutions for the Region 4 servers. Server infrastructure solutions from any other vendors would require approximately 415 new hardware devices, an extensive and complex redesign, deployment, and integration of a new server network architecture and infrastructure throughout the 42 sites of Region 4 due to interoperability and compatibility requirements. In addition, an alternative server infrastructure would also require proprietary maintenance services, which would not resolve the inability to obtain maintenance from vendors other than through the respective server providers. Without the required hardware maintenance services, the existing HPE server performance would eventually degrade and would not be usable by VA throughout Region 4 utilized for critical applications delivering healthcare and benefits services to Veterans. In addition, VA would not receive security updates, which could compromise VA's network security posture. Finally, since the firmware on the existing Region 4 servers is proprietary, no third party source exists that can provide the analysis, troubleshooting, and resolution of any server firmware product-related problems other than HPE on these non-warranty devices.

6. Efforts to Obtain Competition: Currently, no other companies other than HPE can provide the required server maintenance services due to the hardware, software, and firmware in these non-warranty devices being proprietary to HPE. Market research was conducted, details of which are in section eight of this justification. This effort did not yield any additional sources that can meet the Government's requirements. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), notice of award of this action will be synopsisized and this justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award. This justification shall also be posted with the solicitation on the NASA SEWP V website. Any proposals that are received shall be evaluated.

7. Actions to Increase Competition: The Government will continue to conduct market research, review, and revalidate its requirements as server maintenance services continue to evolve. In addition, the requiring activity will continue to monitor whether alternate maintenance services emerge that can meet VA's needs.

8. Market Research: Market research was conducted by VA technical experts as part of a continuous process beginning in September 2012 through September 2016. The market research was conducted by a review of industry websites and analysis of similar hardware maintenance service product offerings. This included a review to confirm if other maintenance service product offerings, including those from International Business Machines Corporation (IBM) and Cisco Systems, Inc. (Cisco) could meet the Government's functional and technical requirements. The review determined that IBM

and Cisco offer similar server maintenance solutions but cannot meet VA's required maintenance needs because these contractors cannot access the source code and technical data of the VA's current proprietary HPE infrastructure. Each source offers a proprietary system and associated maintenance services that will only operate with its respective hardware and software. Based on this market research, only HPE maintenance services can meet VA's technical requirements.

Additional market research was conducted in August 2016 to ascertain the ability of any other source other than HPE to provide the aforementioned hardware problem diagnostics, parts, materials, logistics, defective media retention, 4-hour on-site response, monthly service reports, updates, patches, fixes, and security resolutions. On August 16, 2016 a Request for Information (RFI) was posted on the NASA SEWP V GWAC website to all contract holders to determine whether there were any authorized resellers that could provide the required HPE server maintenance services. On August 25, 2016 the RFI closed and five companies responded. Four of the five respondents, Better Direct, LLC (Better Direct); Cutting Edge Technologies and Solutions (CETECHS); Emergent, LLC (Emergent); and IBM; submitted corporate capabilities information on providing the subject server maintenance services, but also provided statements that they did not have the ability to provide the required brand name HPE updates, patches, fixes, and security resolutions to the subject firmware, that might be restricted by HPE, in order to meet the Government's requirements. HPE, one of the five respondents, provided documentation stating that there are no other vendors that can provide the HPE firmware updates, patches, fixes, and security resolutions due to HPE's intellectual property rights. Based on this market research, HPE is the only responsible source that can provide the requisite server maintenance services.

9. Other Facts: None.